

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EMG TECHNOLOGY, LLC,

Plaintiff,

v.

APPLE, INC.,
AMERICAN AIRLINES, INC.,
BLOOMBERG, L.P.,
CONTINENTAL AIRLINES, INC.,
UNITED PARCEL SERVICE, INC.,

Defendants.

Case No. 6:08-cv-447-LED

JURY TRIAL DEMANDED

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE
TO AMEND INFRINGEMENT CONTENTIONS**

Pursuant to Patent Rule 3-6(b) of the Rules of Practice for Patent Cases before the Eastern District of Texas, Plaintiff EMG Technology, LLC ("EMG") respectfully submits this Unopposed Motion for Leave to Amend Infringement Contentions.

On June 5, 2009, pursuant to this Court's Order dated April 21, 2009, and Patent Rule 3-1 of the Rules of Practice for Patent Cases before the Eastern District of Texas, EMG served its Patent Rule 3-1 Disclosure of Asserted Claims and Infringement Contentions ("Infringement Contentions").

On July 13, 2009, EMG filed an Unopposed Motion for Leave to Amend Infringement Contentions, which the Court granted in its Order dated July 14, 2009. On July 15, 2009, EMG served its First Amended Patent Rule 3-1 Disclosure of Asserted Claims and Infringement Contentions.

Subsequently, the parties met and conferred and agreed that EMG may amend its Infringement Contentions to correct typographical errors and to provide additional examples of infringement by Apple for purposes of streamlining discovery in this case in response to Apple's inquiries regarding EMG's Infringement Contentions. Attached as Exhibit A is a copy of EMG's proposed Second Amended Infringement Contentions and Appendices A-B thereto, with redlining to show the agreed upon changes, and new Appendices K-L thereto. At this time, no changes are being made to the other portions of EMG's Infringement Contentions served on June 5, 2009, and July 15, 2009, including Exhibits A-H to Appendix A, Exhibits A-S to Appendix B, and Appendices C-J, including exhibits thereto.

Good cause exists for the proposed amendments because they correct typographical errors and clarify EMG's contentions under P.R. 3-1. No prejudice to the Court or the parties will result from the proposed amendments because this case is in its earliest stages and Defendants Apple, Inc., American Airlines, Inc., Bloomberg, LP, Continental Airlines, Inc., and United Parcel Service, Inc. do not oppose the amendments.

Accordingly, EMG respectfully requests the Court to enter the proposed Order Granting Unopposed Motion for Leave to Amend Infringement Contentions submitted concurrently herewith.

Dated September 9, 2009

Respectfully submitted,

OF COUNSEL:

By: /s/ Charles Ainsworth

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**ATTORNEYS FOR PLAINTIFF,
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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record, who are deemed to have consented to electronic service, are being served this 9th day of September, 2009, with a copy of this document via the Court's CM/ECF system under Local Rule CV-5(a)(3).

/s/ Charles Ainsworth
Charles Ainsworth

CERTIFICATE OF CONFERENCE

Counsel for EMG has conferred with counsel for Defendants Apple, Inc., American Airlines, Inc., Bloomberg, LP, Continental Airlines, Inc., and United Parcel Service, Inc. (collectively, "Defendants") in a good faith attempt to resolve the matters raised in this motion without court intervention. Counsel for Defendants indicated that the motion is unopposed.

/s/ Charles Ainsworth
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